

## Environmental Protection Agency

## § 98.438

the identity and mass of the fluorinated GHG is unknown.

(vi) Certification that the exporter was unable to obtain information on the identity and mass of the fluorinated GHGs within the closed-cell foam from the closed-cell foam manufacturer or manufacturers.

[74 FR 56374, Oct. 30, 2009, as amended at 78 FR 71978, Nov. 29, 2013]

### § 98.437 Records that must be retained.

(a) In addition to the data required by § 98.3(g), importers of fluorinated GHGs in pre-charged equipment and closed-cell foams must retain the following records substantiating each of the imports that they report:

(1) A copy of the bill of lading for the import.

(2) The invoice for the import.

(3) The U.S. Customs entry form.

(4) Ports of entry through which the pre-charged equipment or closed-cell foams passed.

(5) Countries from which the pre-charged equipment or closed-cell foams were imported.

(6) For importers that report the mass of fluorinated GHGs within closed-cell foams on a CO<sub>2</sub>e basis, correspondence or other documents that show the importer was unable to obtain information on the identity and mass of fluorinated GHG within closed-cell foams from the foam manufacturer.

(b) In addition to the data required by § 98.3(g), exporters of fluorinated GHGs in pre-charged equipment and closed-cell foams must retain the following records substantiating each of the exports that they report:

(1) A copy of the bill of lading for the export and

(2) The invoice for the export.

(3) Ports of exit through which the pre-charged equipment or closed-cell foams passed.

(4) Countries to which the pre-charged equipment or closed-cell foams were exported.

(5) For exporters that report the mass of fluorinated GHGs within closed-cell foams on a CO<sub>2</sub>e basis, correspondence or other documents that show the exporter was unable to obtain information on the identity and mass

of fluorinated GHG within closed-cell foams from the foam manufacturer.

(c) For importers and exports of fluorinated GHGs inside pre-charged equipment and closed-cell foams, the GHG Monitoring Plans, as described in § 98.3(g)(5), must be completed by April 1, 2011.

(d) Persons who transship pre-charged equipment and closed-cell foams containing fluorinated GHGs must maintain records that indicated that the pre-charged equipment or foam originated in a foreign country and was destined for another foreign country and did not enter into commerce in the United States.

### § 98.438 Definitions.

Except as provided in this section, all of the terms used in this subpart have the same meaning given in the Clean Air Act and subpart A of this part. If a conflict exists between a definition provided in this subpart and a definition provided in subpart A, the definition in this subpart must take precedence for the reporting requirements in this subpart.

*Appliance* means any device which contains and uses a fluorinated greenhouse gas refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

*Closed-cell foam* means any foam product, excluding packaging foam, that is constructed with a closed-cell structure and a blowing agent containing a fluorinated GHG. Closed-cell foams include but are not limited to polyurethane (PU) foam contained in equipment, PU continuous and discontinuous panel foam, PU one component foam, PU spray foam, extruded polystyrene (XPS) boardstock foam, and XPS sheet foam. Packaging foam means foam used exclusively during shipment or storage to temporarily enclose items.

*Electrical equipment* means gas-insulated substations, circuit breakers, other switchgear, gas-insulated lines, or power transformers.

*Fluorinated GHG refrigerant* means, for purposes of this subpart, any substance consisting in part or whole of a fluorinated greenhouse gas and that is